

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
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CHAPTER 70

HOUSE BILL 2198

AN ACT

AMENDING SECTION 6-352, ARIZONA REVISED STATUTES; RELATING TO BANK LOANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 6-352, Arizona Revised Statutes, is amended to
3 read:

4 6-352. Limitations of obligations to a bank; exceptions;
5 definitions

6 A. A bank may lend to a single borrower an amount equal to not more
7 than ~~fifteen~~ TWENTY per cent of its capital, plus an amount equal to an
8 additional ten per cent of its capital if the additional amounts are fully
9 secured by readily marketable collateral which has a market value, as
10 determined by reliable and continuously available price quotations, at least
11 equal to the amount of the loan.

12 B. A BANK SHALL NOTIFY THE DEPARTMENT THE FIRST TIME IT MAKES A LOAN
13 IN AN AMOUNT IN EXCESS OF FIFTEEN PER CENT OF ITS CAPITAL. THE NOTIFICATION
14 TO THE DEPARTMENT SHALL BE MADE IN WRITING AND SUBMITTED TO THE DEPARTMENT
15 WITHIN A REASONABLE PERIOD OF TIME.

16 ~~B.~~ C. Each bank shall institute adequate procedures to ensure
17 compliance with subsection A.

18 ~~C.~~ D. The limitations of subsection A do not apply to:

19 1. Obligations incurred by the assignment, endorsement or guarantee of
20 the obligation of a third person, including an agreement to purchase the
21 third person's obligation or the collateral therefor, if the bank has
22 evaluated the financial condition and responsibility of the third person and
23 as a result of such evaluation accepts the obligation in reliance primarily
24 upon the third person for payment. In such case the obligations of the third
25 person to the bank shall be the sole applicable limitation.

26 2. Obligations, whether general obligations or payable from revenues
27 or special assessment, of the United States or any agency or instrumentality
28 thereof, a federal reserve bank, a state of the United States or a
29 subdivision, instrumentality or public authority organized under the laws of
30 such state.

31 3. Obligations to the extent they are secured by the guarantee,
32 insurance or other like commitment of the United States, an agency or
33 instrumentality of the United States, a federal reserve bank, a state of the
34 United States or a subdivision, instrumentality or public authority organized
35 under the laws of such state, whether the commitment provides for payment in
36 cash or in obligations described in paragraph 2 of this subsection.

37 4. Obligations to the extent they are secured by any obligation
38 described in paragraphs 2 and 3 of this subsection at the value thereof, not
39 exceeding face value, at the time the obligation to the bank is created.

40 5. Obligations to the extent they are secured by deposits in the bank.

41 6. Obligations which are outstanding in the regular process of bank
42 collection or clearing transactions.

43 7. Obligations of a qualified reserve depository of the bank, unless
44 the superintendent has by specific order excluded or limited the obligations
45 of such depository from the exemption of this paragraph.

1 8. Any obligation created in the sale by the bank of any of its
2 property where the bank retains title, lien or security interest in the
3 property sold to secure the obligation.

4 9. Any obligation under the lease by the bank of any personal property
5 acquired by the bank in collecting an obligation to it or the lease of any of
6 its real property or banking equipment.

7 10. That portion of the obligations of a person to the bank which
8 exceed the aggregate funds paid and the value of property delivered by the
9 bank in creating the obligation.

10 11. Any obligation exempt by rule of the superintendent or arising from
11 the sale of any assets of the bank in a transaction which has been approved
12 by the superintendent.

13 ~~D.~~ E. If the bank participates in an obligation with another obligee,
14 the limitations of this section shall be applicable only to the extent of the
15 bank's participation.

16 ~~E.~~ F. If the value of collateral for a loan which is required to be
17 fully secured under subsection A falls below one hundred per cent of the
18 outstanding loan, the loan must be brought into conformance within five
19 business days, except if judicial proceedings, regulatory actions or other
20 extraordinary occurrences prevent the bank from taking action.

21 ~~F. For the purposes of this section:~~

22 ~~1.~~ G. A renewal of a loan or a modification and extension of original
23 repayment terms are not deemed to be a new loan or an extension of credit
24 except in instances in which interest on the renewed loan or extension of
25 credit is capitalized or additional money is advanced.

26 ~~4.~~ H. Financial instruments may be denominated in foreign currencies
27 which are freely convertible to United States dollars. If denominated and
28 payable in a currency other than that of the loan or extension of credit
29 which it secures, the bank's procedures adopted pursuant to subsection B- C
30 shall require that the collateral be revalued at least monthly using
31 appropriate foreign exchange rates in addition to being valued at current
32 market value.

33 I. FOR THE PURPOSES OF THIS SECTION:

34 ~~3.~~ 1. "Financial instruments" includes stocks, bonds and debentures
35 traded on a national securities exchange, over the counter margin stocks as
36 defined in regulation U of the federal reserve board, commercial paper,
37 notes, negotiable certificates of deposit, banker's acceptance and shares in
38 money market and mutual funds of the type in which banks may perfect a
39 security interest.

40 2. "Readily marketable collateral" means financial instruments or
41 bullion which are saleable under ordinary circumstances with reasonable
42 promptness at a fair market value determined by quotations based on actual
43 transactions of an auction or a similarly available daily bid and asked price
44 market.

APPROVED BY THE GOVERNOR APRIL 16, 2007.

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